

Appl. No. 09/589,414  
Amendment of 28 October 2004  
Response to 02 August 2004 Office Action

### Remarks

Claims 1, 4, 5, 8 – 21, 24 – 30, and 40 – 46 are currently pending in the application. With this Amendment, Applicants have amended claims 1, 19 – 21, 24 – 27, and 29.

Currently pending claims 1, 4, 5, 8 – 12 and 40 – 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herman, et al. (U.S. Patent No. 6,341,353) (hereinafter "Herman") in view of Tracton, et al. (U.S. Patent No. 6,470,378) (hereinafter "Tracton"). Claims 13 – 21, 24 – 30, and 45 – 46 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Herman, in view of Tracton and Gregg, et al. (U.S. Patent No. 6,516,416) (hereinafter "Gregg").

In order to advance the prosecution of this application, Applicants have amended independent claims 1, 19 – 21, 24 – 27, and 29 to make explicit that each of the claimed embodiments of the present invention is directed to data communications in a managed data network. For example, claim 1 recites:

A computer system for managing data exchanges among a plurality of network nodes in a managed packet network, comprising: a managed packet backbone server (MPBS) disposed to communicate with and control resource allocation among the plurality of network nodes in the managed packet network. . . wherein the managed packet backbone server . . . manages transactions among said at least one Customer Premises Equipment (CPE) node and said at least one Application Service Provider (ASP) node and reserves resources among the plurality of network nodes in the managed packet network to provide managed data communications between said at least one [CPE] node and said at least one [ASP] node."

(emphasis added). Thus, the embodiment of the present invention presented in claim 1 specifically requires that a managed packet backbone server manage transactions between network nodes and reserve resources among network nodes over which the data communications will occur. Similar limitations are found in

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independent claims 19 – 21, 24 – 27, and 29. The art cited by the Examiner, Herman, Tracton, and Gregg, fails to teach or fairly suggest the claimed invention.

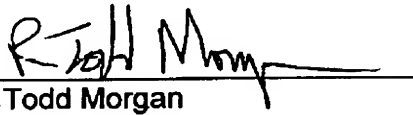
Specifically, each of the prior art referenced cited by the Examiner, Herman, Tracton, and Gregg, teaches aspects of communications between computers connected to an un-managed, public network (e.g., the Internet) that cannot be managed by a constituent node (such as a communications server) to create "reserved resources." Therefore, the references cited by the Examiner teach away from the claimed invention which is specifically directed to management of resources on a managed network where the network nodes are managed by a server that reserves resources at the network nodes through which the managed data communication session will occur. Because the networks of Herman, Tracton and Gregg each involve data communications across an unmanaged, "best efforts" network such as the Internet, they teach away from the claimed invention.

For at least the reasons stated above, and in light of the foregoing amendments and arguments, Applicants respectfully request that the Examiner withdraw the rejection of independent claims 1, 19 – 21, 24 – 27, and 29. Since each of the remaining claims depend from an allowable base claim, Applicants also request that the Examiner provide a notice of allowability for all currently pending claims 1, 4, 5, 8 – 21, 24 – 30, and 40 – 46.

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The Examiner is invited to contact the undersigned at the below-listed number with any questions.

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